

or landed in an Atlantic coastal state on a vessel with a longline, provided the harvesting vessel does not fish on that trip in the Atlantic Ocean north of 5° N. lat. and reports positions with a vessel monitoring system, as specified in § 635.69.

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§ 635.29 Transfer at sea.

(a) Persons may not transfer an Atlantic tuna, blue marlin, white marlin, or swordfish at sea in the Atlantic Ocean, regardless of where the fish was harvested. However, an owner or operator of a vessel for which a Purse Seine category Atlantic Tunas permit has been issued under § 635.4 may transfer large medium and giant BFT at sea from the net of the catching vessel to another vessel for which a Purse Seine category Atlantic Tunas permit has been issued, provided the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits.

(b) Persons may not transfer a shark or a sailfish at sea shoreward of the outer boundary of the EEZ, regardless of where the shark was harvested, and persons may not transfer at sea a shark or a sailfish taken shoreward of the outer boundary of the EEZ, regardless of where the transfer takes place.

§ 635.30 Possession at sea and landing.

(a) *Atlantic tunas.* Persons that own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached.

(b) *Billfish.* Any person that possesses a blue marlin or a white marlin taken from its management unit or a sailfish taken shoreward of the outer boundary of the EEZ or lands a blue marlin or a white marlin in an Atlantic coastal port must maintain such billfish with its head, fins, and bill intact through offloading. Persons may eviscerate such billfish, but it must otherwise be maintained whole.

(c) *Shark.* (1) No person shall fin any shark, i.e., remove only the fins and return the remainder of the shark to the sea, shoreward of the outer boundary of the EEZ and on board a vessel for which a commercial vessel permit for shark has been issued. No person shall possess a shark fin on board a fishing vessel after the vessel's first point of landing. No person shall possess or offload wet shark fins in a quantity that exceeds 5 percent of the weight of the shark carcasses. The prohibition on finning applies to all species of sharks in the management unit. For a list of species in the management unit, refer to tables 1 and 2 of appendix A to this part.

(2) Persons that own or operate a vessel that has been issued a commercial permit for shark may not fillet a shark at sea. Persons may eviscerate and remove the head and fins, but must retain the fins with the dressed carcasses. While on board and when offloaded, the wet shark fins may not exceed 5 percent of the weight of the shark carcasses.

(3) Persons that own or operate a vessel that has been issued a commercial permit that lands shark in an Atlantic coastal port must have all fins weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing. Such weights must be recorded on the weighout slips specified in § 635.5(a)(2). Persons may not possess a shark fin on board a fishing vessel after the vessel's first point of landing. The wet fins may not exceed 5 percent of the weight of the carcasses.

(4) Persons aboard a vessel that does not have a commercial permit for shark must maintain a shark in or from the EEZ intact through landing—the head, tail, or fins may not be removed. The shark may be bled.

(d) *Swordfish.* Persons that own or operate a fishing vessel that possesses a swordfish in the Atlantic Ocean or lands a swordfish in an Atlantic coastal port must maintain such swordfish in round or dressed form through offloading.

§ 635.31 Restrictions on sale and purchase.

(a) *Atlantic tunas.* (1) Persons that own or operate a vessel that possesses

an Atlantic tuna may sell such Atlantic tuna only if that vessel has a valid HMS or Atlantic Tunas Charter/Headboat permit, or a General, Harpoon, Longline, Purse Seine, or Trap category permit for Atlantic tunas issued under this part. Persons may not sell a BFT smaller than the large medium size class. However, a large medium or giant BFT taken by a person on a vessel with an HMS or Atlantic Tunas Charter/Headboat permit fishing in the Gulf of Mexico at any time, or fishing outside the Gulf of Mexico when the fishery under the General category has been closed, may not be sold (see § 635.23(c)). Persons may sell Atlantic tunas only to a dealer that has a valid permit for purchasing Atlantic tunas issued under this part.

(2) Dealers may purchase Atlantic tunas only from a vessel that has a valid commercial permit for Atlantic tunas issued under this part in the appropriate category.

(3) Dealers or seafood processors may not purchase or sell a BFT smaller than the large medium size class unless it is lawfully imported and is accompanied by a BSD, as specified in § 635.42(a).

(4) A BFT in the possession of a dealer or seafood processor is deemed to be from the Atlantic Ocean. However, a BFT will not be deemed to be from the Atlantic Ocean if—

(i) It was landed in a Pacific state and remains in the state of landing, or

(ii) It is accompanied by a BSD, as specified in § 635.42(a).

(b) *Billfish*. (1) Persons may not sell or purchase a billfish taken from its management unit.

(2) A billfish or a closely related species, namely, black marlin, *Makaira indica*, striped marlin, *Tetrapturus audax*, or shortbill spearfish, *Tetrapturus angustirostris*, or a part thereof, in the possession of a dealer or seafood processor is considered, for purposes of this part, to be a billfish from the Atlantic Ocean management unit. However, a billfish or a closely related species will not be considered to be from the Atlantic Ocean management unit if—

(i) It was landed in a Pacific state and remains in the state of landing, or

(ii) It is accompanied by a Billfish Certificate of Eligibility that documents that it was harvested from other than the Atlantic Ocean management unit.

(c) *Shark*. (1) Persons that own or operate a vessel that possesses a shark from the management unit may sell such shark only if the vessel has a valid commercial permit for shark issued under this part. Persons may possess and sell a shark only when the fishery for that species group has not been closed, as specified in § 635.28(b)(3).

(2) Persons that own or operate a vessel for which a valid commercial shark permit has been issued and on which a shark from the management unit is possessed, may sell such shark only to a dealer that has a valid permit for shark issued under this part.

(3) Persons that own or operate a vessel for which a valid commercial shark permit has been issued may not sell fins from a shark harvested from the management unit, or harvested in the Atlantic Ocean by a vessel for which a commercial permit for shark has been issued, that are disproportionate to the weight of shark carcasses landed (the wet fins may not exceed 5 percent of the weight of the carcasses).

(4) Only dealers that have a valid permit for shark may purchase a shark from the owner or operator of a fishing vessel. Dealers may purchase a shark only from an owner or operator of a vessel who has a valid commercial permit for shark issued under this part, except that dealers may purchase a shark from an owner or operator of a vessel that does not have a commercial permit for shark if that vessel fishes exclusively in state waters. Dealers may purchase a shark from an owner or operator of fishing vessel that has a permit issued under this part only when the fishery for that species group has not been closed, as specified in § 635.28(b)(3).

(5) Dealers may not purchase from an owner or operator of a fishing vessel shark fins that are disproportionate to the weight of shark carcasses landed (the wet fins may not exceed 5 percent of the weight of the carcasses).

(d) *Swordfish*. (1) Persons that own or operate a vessel on which a swordfish

in or from the Atlantic Ocean is possessed may sell such swordfish only if the vessel has a valid commercial permit for swordfish issued under this part. Persons may sell such swordfish only to a dealer who has a valid permit for swordfish issued under this part.

(2) Dealers may purchase a swordfish harvested from the Atlantic Ocean only from an owner or operator of a fishing vessel that has a valid commercial permit for swordfish issued under this part.

§ 635.32 Specifically authorized activities.

(a) *General.* Consistent with the provisions of § 600.745 of this chapter, except as indicated in this section, NMFS may authorize for the conduct of scientific research or the acquisition of information and data, for the enhancement of safety at sea, for the purpose of collecting animals for public education or display, or for investigating the reduction of bycatch, economic discards or regulatory discards, activities otherwise prohibited by the regulations contained in this part. Activities subject to the provisions of this section include, but are not limited to, scientific research resulting in, or likely to result in, the take, harvest or incidental mortality of Atlantic HMS, exempted fishing and exempted educational activities, or programs under which regulated species retained in contravention to otherwise applicable regulations may be donated through approved food bank networks. Such activities must be authorized in writing and are subject to all conditions specified in any letter of acknowledgment, exempted fishing permit or scientific research permit issued in response to requests for authorization under this section. For the purposes of all regulated species covered under this part, NMFS has the sole authority to issue permits, authorizations, and acknowledgments. If a regulated species landed or retained under the authority of this section is subject to a quota, the fish shall be counted against the quota category as specified in the written authorization.

(b) *Scientific research activities.* For the purposes of all species covered under this part regulated under the authority of ATCA, the provisions for re-

search plans under § 600.745(a) and reports under § 600.745(c)(1) of this chapter are mandatory. In such cases of authorized scientific research activities, NMFS shall issue scientific research permits. For scientific research activities involving the capture of Atlantic sharks, research plans and reports are requested; letters of acknowledgment shall be issued by NMFS as indicated under § 600.745(a) of this chapter.

(c) *Exempted fishing permits.* (1) For activities consistent with the purposes of this section and § 600.745(b)(1) of this chapter, other than scientific research conducted from a scientific research vessel, NMFS may issue exempted fishing permits. Application procedures shall be as indicated under § 600.745(b)(2) of this chapter, except that NMFS may consolidate requests for the purposes of obtaining public comment. In such cases, NMFS may file with the Office of the Federal Register for publication notification on an annual or, as necessary, more frequent basis to report on previously authorized exempted fishing activities and to solicit public comment on anticipated exempted fishing requests.

(2) Notwithstanding the provisions of § 600.745 of this chapter and other provisions of this part, a valid shark EFP is required to fish for, take, retain, or possess a shark in or from the Atlantic EEZ for the purposes of public display under the shark public display quota specified in § 635.27(b)(2). A valid shark EFP must be on board the harvesting vessel, must be available when the shark is landed, must be available when the shark is transported to the display facility, and must be presented for inspection upon request of an authorized officer. A shark EFP is valid for the specific time, area, gear, and species specified on it.

(3) To be eligible for a shark EFP, a person must provide all information concerning his or her identification, numbers by species of sharks to be collected, when and where they will be collected, vessel(s) and gear to be used, description of the facility where they will be displayed, and any other information that may be necessary for the issuance or administration of the permit, as requested by NMFS.